

Meeting Date: 12-09-08

Santa Clara



AGENDA REPORT

City of Santa Clara, California

Agenda Item # MB-2



DATE: December 1, 2008

TO: City Manager for Council Action

FROM: Director of Planning & Inspection

SUBJECT: Approve Adding Property at 753 Park Court to the City's Architecturally or Historically Significant Properties List and Approve and Authorize City Manager to Execute Historic Property Preservation Agreement (Mills Act Contract) for 753 Park Court (PLN2008-07239)

EXECUTIVE SUMMARY:

The State of California enacted Legislation that allows owners of approved historically designated properties to enter into "Mills Act" contracts with the legislative bodies of local agency jurisdictions, pursuant to Section 50280-90 of the California Government Code. These properties then qualify for property tax incentives contained in the California Revenue and Taxation Code. City Council adopted the Mills Act Program by resolution on September 14, 1993, and submitted to a limit of five (5) contracts per year. In 2004, the City Council approved increasing the number of allowable contracts to ten (10) per year. This would be the tenth (10th) Mills Act Contract for calendar year 2008.

The property is not currently listed on the City's Architecturally or Historically Significant Properties List; however, a survey has been conducted on the property, which found the property eligible for inclusion on this list. The Historic Property Preservation Agreement is the historic resources inventory (State DPR form) evaluating the significance of the structure, along with additional attachments that include the proposed maintenance and rehabilitation schedule. This Agreement has been placed in the Council offices for review.

The Historical and Landmarks Commission reviewed this request at its meetings of September 4th, October 2nd and November 6, 2008. The Commission supported the request for historic listing on September 4, 2008, and subsequently recommended approval of a Mills Act Contract at their meeting of November 6, 2008. The staff report and minutes from these meetings are attached.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The purpose of a Mills Act Contract is to offer owner(s) of historically significant properties an economic incentive to maintain and preserve the historic physical integrity of their properties, which thereby also increases the aesthetic and economic health of the surrounding neighborhood and the City.

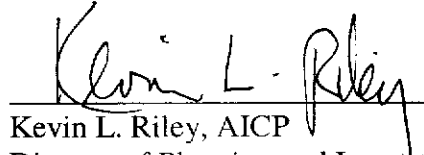
ECONOMIC/FISCAL IMPACT:

The fiscal impact would be a negligible decrease of property tax revenue to the City.

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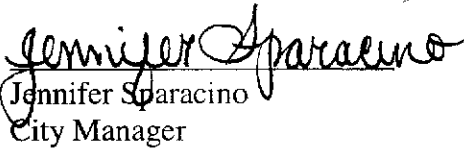
RECOMMENDATION:

That the Council approve adding the property located at 753 Park Court to the City's Architecturally or Historically Significant Properties List and also approve and authorize the City Manager to execute a Historic Property Preservation Agreement (Mills Act Contract) for 753 Park Court with property owners Richard and Carol Mitchell.



Kevin L. Riley, AICP
Director of Planning and Inspection

APPROVED:



Jennifer Sparacino
City Manager

Documents Related to this Report:

- 1) Excerpts of Staff Reports and Minutes from the September 4, 2008, October 2, 2008, and November 6, 2008 Historical and Landmarks Commission meetings
- 2) Historic Property Preservation Agreement – in Council Offices

**HISTORICAL AND LANDMARKS COMMISSION
EXCERPTS OF STAFF REPORTS AND MINUTES**

**REQUEST FOR HISTORIC DESIGNATION AND MILLS ACT CONTRACT
FOR 753 PARK COURT**

Minutes – November 6, 2008:

Request for Historic Designation and Mills Act Contract –753 Park Court:

Mr. Schwilk reviewed the staff report and staff recommendation for this request.

Property owner Carol Mitchell was present for the discussion. Mrs. Mitchell commented on the small size of the house, the great expense she and her husband incurred to retain the historic character of the home in the recent addition and rehabilitation work, and her original research of the Mills Act as a way to help defray the costs of the work. She stated her hope that the Commission would continue to take applications on a case-by case basis, bearing in mind the intent of the Mills Act program, the size of her house, and the effort she and her husband took to add to the home in a manner that complies with the Secretary of Interior Standards.

Commissioner Motyka noted that the addition and restoration work performed to date on this house was very-well done, and should serve as an example of the type of work the Commission would hope to see from other homeowners contemplating additions and restoration work.

It was then moved by Commissioner Motyka, seconded by Commissioner McKee and unanimously carried, that in addition to the Commission's recommendation of September 4, 2008, to recommend that this property be added to the City's List of Architecturally or Historically Significant Properties, the Commission further recommended approval of a Mills Act Contract for the property at 753 Park Court.

Staff Report – November 6, 2008:

As a follow-up to the October 2nd discussion of the Commission regarding Mills Act criteria, and applying the interpretation that the 25-percent policy of the Commission applies to the footprint of the historic portion of the house, and not to basements, the recent 312 square foot addition to the original 962 square foot house on this property does represent a 32 percent expansion. This expansion would not meet the maximum 25-percent expansion policy of the Commission.

After additional consideration of the October 2nd and September 4th discussions, and given that the 25 percent policy might unintentionally penalize smaller, historically significant homes worthy of Mills Act contracts, the Commission may be consider granting some exception to this policy for smaller properties.

Staff Recommendation- November 6, 2008:

In addition to the Commission's recommendation of September 4, 2008, to recommend that this property be added to the City's List of Architecturally or Historically Significant properties, it is further recommended that the Commission grant exception to its maximum 25-percent expansion criteria for supporting Mills Act contracts, given the relatively small original size of this house, and recommend approval of a Mills Act Contract for the property at 753 Park Court.

Minutes – October 2, 2008:

Commissioner Richards noted that this item should be continued again, until the Commission has clarified its 25-percent expansion policy.

The Owner, Carol Mitchell was present for the discussion, and was amenable to the continuance.

There was no discussion.

It was moved by Commissioner Richards, seconded by Commissioner Motyka and unanimously carried to continue this item to the meeting of November 6, 2008.

Staff Report – October 2, 2008:

Clarification from last meeting:

To clarify a few points raised at the September 4th meeting, attached are two aerial photos demonstrating relocation of the garage approximately 25 feet toward the rear property line. Also, City permit records indicate the owners applied for building permits for the rear addition on July 16, 2007. City permit records for the rear addition, the garage reconstruction and relocation, and a previous chimney removal, are also attached.

Also, following from the Commission's previous discussions and policies adopted at previous meetings, staff has followed up with the applicant seeking additional information about the existing basement on the property.

The applicant has responded by providing the attached site plan showing the location and dimensions of the existing finished basement, indicated by dotted outline, as well as providing photographs of this storage space.

Considerations – October 2, 2008:

- At the April 5, 2007 meeting, the Commission adopted a policy that new basement space should not be counted toward the maximum 25 percent expansion threshold for the Commission to support a Mills Act request.
- At the same meeting, at least one of the commissioners raised the idea that original structures should be maintained as much as possible, including basements and attic areas.
- If the existing finished basement area, whether it is used as storage spaces or as habitable living area for the home, were counted as part of the overall floor area of the home in determining whether a new addition would exceed 25 percent of the original floor area, such an approach could provide some incentive to homeowners to maintain their original basement - a common characteristic of historic homes in the Old Quad area of the City.
- Using this approach, the existing basement measures 12-feet, 10 inches by 10 feet, or 128 square feet.
- Adding 128 square feet of basement area to the 962 square feet of original first floor area, the total original floor area of the home would be 1,090 square feet.
- Counting the basement in the overall floor area of the home, the recent rear addition to the house represents a 28 percent expansion to the original home.
- This house is one of approximately 75 relatively small bungalow-style homes that comprise the Park Court Subdivision – one of the only intact 1920's and 1930's subdivisions in the City.
- This house retains the appearance of its small bungalow character from the street.
- Currently, there is only one other home in the Park Court Subdivision, at 782 Park Court, that has entered into a Mills Act contract with the City.
- After further consideration, while the expansion exceeds the 25 percent policy by 3 percent, staff supports the applicant's request given the above considerations and the relatively small original house size.

Staff Recommendation-October 2, 2008:

In addition to the Commission's recommendation of September 4, 2008, to recommend that this property be added to the City's List of Architecturally or Historically Significant properties, it is further recommended that the Commission make a minor exception to its maximum 25-percent expansion criteria for supporting Mills Act contracts, given the relatively small original size of this house, and recommend approval of a Mills Act Contract for the property at 753 Park Court.

Minutes – September 4, 2008

C. Request for Historic Designation and Mills Act Contract –753 Park Court

Representing the application, property owner Carol Mitchell, and her consultant Lorie Garcia, were present for the discussion.

Mr. Schwilk summarized the staff report and staff recommendation, noting the recent 312 square-foot addition to the rear of the residence, as well as relocation of the detached garage to the rear of the property. Mr. Schwilk further noted that, the addition to the original 962 square foot structure represents a 32 percent increase, exceeding the maximum 25 percent expansion policy of the Commission. Accordingly, staff was recommending approval of the historic designation of the property, but was not supporting a Mills Act contract for the property.

Carol Mitchell then addressed the Commission and stated her belief that the Commission adopted its maximum 25% expansion criteria for supporting Mills Act Contracts, after she obtained permits for her addition a few years ago. She noted that had she been informed of the 25 percent rule, she and her husband would not have exceeded it. She noted that, had they known, they would have built a smaller addition, or expanded the basement, or built a larger garage. She further stated that, while previously in the Planning process for her addition, she was informed by staff that any time would be the best time to apply for a mills act contract. She also noted that the addition is not visible from the front street, is modest, fits the neighborhood, does not change the look of the house, and that great effort was made to preserve the historical integrity of the building with the addition, and that she and her husband have tried hard to fulfill all of the City requirements. She stated that the extra 12-feet at the back of the house was needed to create closet space for the home, and a place for the laundry. Otherwise, it is still the original two-bedroom, one-bathroom home. In a small house of 962 square feet, storage space was a problem. She stated that the Commission should approve the Mills Act request for the property, because the home retains its historic appearance from the street on a street of historic homes, and because permits for the addition were obtained before the 25-percent policy was adopted by the Commission.

In response to a question by Commissioner McKee, Mrs. Mitchell noted that she obtained permits a little more than one year ago – late summer last year.

Commissioner McKee clarified his recollection that the maximum 25-percent expansion policy of the Commission was adopted sometime in 2006, which would have been before permits were obtained for the addition.

In response to an inquiry by Ms. Painter on the basement area, Mrs. Mitchell noted that the basement is the original quarter basement beneath the house that she and her husband had considered using for light duty storage, until all of the basements in the area had flooded in the previous year.

Ms. Painter noted that if the owner were willing to provide details on the existing basement, including its size, and if the applicant was proposing to finish off the basement area so that it is usable space, staff could add that area to the 962 square feet and recalculate the percentage of the expansion.

Lorie Garcia noted that the staff report was incorrect in referring to the garage as being relocated. She noted her understanding that the garage was rebuilt in the same location, with the garage door being relocated to the rear to serve vehicle access from Cypress Alley to the rear.

It was then moved by Commissioner Richards, seconded by Commissioner Motyka and unanimously carried to recommend that the property be added to the City's list of Architecturally or Historically Properties.

Lorie Garcia then addressed the Commission on the subject of the Mills Act. She commented that the Commission's policy of limiting its support for Mills Act contracts only to those homes that have not been expanded by more than 25 percent of the original floor area is problematic, in that additions have always been allowed to historic properties. She noted this policy is unusual. She noted her understanding that the Commission adopted this in looking at some way to handle the number of Mills Act proposals to the City, and further noted that it is unfortunate the City does not have a process for differentiating properties that are added to the City's Historically Significant List from those properties that are Landmark properties, which many other cities have, where only Mills Acts can be granted to landmark properties. National trust guidelines or otherwise, additions to homes on historic properties are allowed. Considerations for the addition should be where they are placed and how they are placed. She noted her concern that, if the City continues to follow such a policy, it would lessen the viability of the City to encourage maintenance and preservation of smaller homes on smaller properties. She requested that the Commission revisit this policy and look at other ways, such as encouraging one-story additions rather than two-story additions, to control the number of Mills Act contracts issued in the City.

Commissioner Richards noted that the Commission spent a lot of time developing the 25 percent policy and the other guidelines for the Commission's support of Mills Act Contracts. He noted that, until the Commission revisits its policies and changes its guidelines, he would continue to adhere to them.

Commissioner Motyka requested that the item be continued, to allow staff to revisit the calculations, including reporting back on adding finished versus unfinished areas of the basement.

It was then moved by Commissioner Richards, seconded by Commissioner Motyka, and unanimously carried, to place this item on hold, in order to allow the Commission time to review and discuss its policies for supporting Mills Act contracts, including the 25-percent guideline, at the next meeting.

Staff Report - September 4, 2008

Property owners Richard T. Mitchell III and Carol G. Mitchell are requesting that their one-story Bungalow cottage, located at 753 Park Court, be designated as Historically/Architecturally Significant. The owners are also requesting a Mills Act Contract for their property. The property is located on the north side of Park Court, which backs up to Cypress Alley and is approximately three hundred feet east of Alviso Street. The structure is not currently listed on the City of Santa Clara Architecturally or Historically Significant Properties List. A property evaluation report is required as part of the Mills Act application. The applicant contracted with an outside consultant to perform the necessary DPR (historic report) as per State guidelines. The historic research found the property to be constructed circa 1927, and the evaluator has found 753 Park Court to retain sufficient integrity to qualify as a historic property, and appears to be, based on compliance with the Local Significance Criteria, eligible for listing on the City of Santa Clara Architecturally or Historically Significant Properties List. Attached is a DPR form evaluating the significance of the structure. Additional attachments contain the draft contract, proposed maintenance and rehabilitation schedule, and the applicant's statement of justification.

A requirement of the Mills Act is that the building must be a qualified structure listed on either a local, State or National register. It is requested that the Historical and Landmarks Commission

make a recommendation to City Council as to whether or not this property should be added to the City's list of Historic Properties. It is also requested that the Commission make a recommendation regarding whether or not this property should be approved for a Mills Act Contract, which will be referred to the City Council for final action.

The historic survey found the architectural integrity of the structure has been slightly diminished by the original windows with new to match the original in 2008. The garage was relocated to the rear of the lot and now opens onto Cypress Alley, similar to others in the neighborhood in 2007 to accommodate a 312 square foot addition made to the original 962 square foot house in 2008. The additional represents a 32.4 percent increase to the original structure, which exceeds the Commission's policy that additions not exceed 25 percent of the original structure.

The survey concluded that the subject property retains enough of its historic character and appearance to be recognizable as a historic property and to convey the reason for its significance.

Staff Recommendation-September 4, 2008:

Recommend that the Commission support the owners' request to have the property at 753 Park Court, and so recommend to the City Council. Further recommend denial of a Mills Act Contract as the addition represents a 32.4 percent increase to the original structure which is not in keeping with the 25 percent policy established by the Commission, as has been upheld by City Council.

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

SUBJECT: 753 Park Ct. - Add to Historical Properties List +
Approve Mills Act Contract

Council Date: 12/9/08

CERTIFICATION

The proposed Agenda Report + Agreement
Regarding 753 Park Ct.
has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:

Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City

City Charter § _____ (i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

City Code § _____

1. As to City Functions, by

Kevin L. Riley
Department Head

2. As to Legality, by

Keene Hechter
City Attorney's Office / CAO Assignment No 081630

3. As to Environmental
Impact Requirements, by

Kevin L. Riley
Director of Planning and Inspection

4. As to Substance, by

J. Sparano
City Manager

Revision Date June 7, 2005